IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH

Date of Decision: 17.11.2006

Harpal Singh ..Appellant

Versus

Kuldeep Kaur and others ..Respondents

CORAM:- **HON'BEL MR. JUSTICE VINEY MITTAL**
HON'BLE MR. JUSTICE H.S.BHALLA

Present:- Mr. S.P.S.Sidhu, Advocate
For the appellant.

H.S.BHALLA, J.

This appeal is directed against the award dated September 13,2005 passed by Motor Accident Claims Tribunal. Amritsar (hereinafter referred to as "the Tribunal") praying for setting aside the award qua the appellant vide which, he along with other respondents was held liable jointly and severally to pay compensation to the legal heirs of the deceased.

The other facts required to be noticed for the disposal of the petition are that on 5.8.2003 Bakhshish Singh arrived at village Bahadur Nagar at 12.00 (noon) and he disclosed to Baldev Singh son of Kartar Singh with regard to the birth of his daughter. After taking meals, Bakhshish Singh along with Baldev Singh left for village Dhun Dhaiwala. Baldev Singh was on a separate motor cycle and was accompanied by Dharam Singh son of Sakatar Singh, whereas Bakhshish Singh was on his separate scooter bearing registration No.PB02-R-5903, Bakhshish Singh was ahead of Baldev Singh. When they reached near the Behak of Puran Singh on Patti-Sarhali Road, near Sarhali village, a truck bearing registration No.RJ-31G-3038 being driven by respondent No.2 was seen coming from Patti side at about 4.00 P.M. in a rash and negligent manner. Suddenly, the driver of the

truck turned his vehicle on the left side of the road and went out of control on account of which, the side of the truck hit the scooter of Bakhshish Singh, who fell down on the pucca road and died at the spot. The accident took place on account of rash and negligent driving of the truck bearing registration No.RJ-31G-3038 by Dilbagh Singh, respondent No.2. Deceased Bakhshish Singh was aged 33 years at the time of accident. He was working as a mason. He did job of a contractor as well. All the claimants, being widow, minor children and old mother were dependent upon the deceased. A claim petition was filed in order to claim compensation from the respondents.

The learned tribunal, after going through the oral as well as documentary evidence available on the record, allowed the claim petition filed by the claimants vide its award dated September 13,2005, the operative part of which runs as under:-

> " In view of my findings on the aforesaid issues, the claim petition is allowed and an award of Rs.2,78,000/- is passed in favour of the claimants and against the respondents. Liability of respondents No.1 2, and 4 shall be joint and several. The claimants shall also be entitled to interest @ 6% p.a. from the date of filing of the claim petition till realization. In case, the payment of the award amount is not made within three months from today, the rate of interest shall be 9% p.a. Out of the award amount, Kuldeep Kaur, claimant No.1 shall be entitled to Rs.1,00,000/-. This amount is also inclusive of Rs.5000/- granted on account of loss of consortium. Sharanjit Kaur and Karamjit Kaur claimants No.2 and 3 shall be entitled to Rs.65,000/- each and Salwinder Kaur claimant No.4 shall be

entitled to the remaining amount of Rs.48,800/-. However, the amounts awarded to the claimants No.2 and 3, who are minors, shall be deposited in the shape of Fixed Deposits in their names in some nationalized Bank, which shall be payable to them on attaining the age of majority. No financial liability shall be permissible against the aforesaid F.DRs. Counsel fee is assessed at Rs.500/-. Memo of costs be prepared. File be consigned to the record room."

We have heard the learned counsel for the appellant and gone through the paper-book.

Justice ordinarily demands that every case must reach its destination, not interrupted enroute. We have also gone through the award passed by the learned Tribunal and find that it is a well founded, well reasoned and is based on appreciation of evidence. Learned counsel appearing for the appellant has not been able to point out any glaring defect in the procedure adopted by the learned tribunal nor any manifest error on the point of law could be pointed out, which resulted in flagrant miscarriage of justice. Moreover, in cases of accident claims, economic object to be achieved by the statutory provision should be the paramount consideration with the learned Tribunal. Learned counsel appearing for the appellant has contended that although on the date of accident, Harpal Singh, appellant, was not the registered owner of the truck in question, but the learned tribunal has committed a grave error in holding him liable to pay compensation along with previous owner, i.e., Harbhajan Singh, respondent No.1, who has taken a plea in his written statement that he had already sold the truck in question to Harpal Singh and Harpal Singh had taken the truck in question on supardri as well from the court by misrepresenting him to be the registered owner of the aforementioned truck and in such like

circumstances, he cannot be held liable to pay compensation to the legal heirs of the deceased. The contention of the learned counsel for the appellant that Harpal Singh was not the registered owner of the offending truck at the time of accident and Harbhajan Singh continues to be the registered owner in the record maintained by the Transport Authority, is liable to be noticed only for the sake of rejection keeping in view the detailed reasons given by the learned Tribunal in para No.18 of its award wherein the learned Tribunal, on the strength of the testimony of the witnesses, has held that although there was a transfer of title by payment of consideration and delivery of possession of the truck, but Harbhajan Singh still continues to be the registered owner of the vehicle, inasmuch as, the vehicle in question had not been transferred in the name of the appellant in the record maintained by the Registering Authority. This fact further finds support from para No.2 of the application moved by Harbhajan Singh before the Ilaqa Magistrate wherein it has been mentioned specifically that the registration certificate of the said vehicle still continues to be in his name, but Harpal Singh had taken the truck in question on supardari wrongfully by misrepresenting him before the Court to be the registered owner of the said vehicle. The finding, on appreciation of evidence, recorded by the learned tribunal in holding both Harbhajan Singh, being the registered owner and Harpal Singh, being the present owner of the truck in question is, in our considered view, correct making both of them liable jointly and severally along with driver of the truck, Dilbagh Singh, respondent No.2 to pay compensation to the legal heirs of the deceased. In view of this, we find that there is nothing to be set right and no interference is called for in the award passed by the learned tribunal.

In view of the above discussion, we find no illegality and infirmity in the award dated September 13,2005 passed by the learned Tribunal. Accordingly, appeal filed by the appellant is dismissed in limine.

(H.S.BHALLA)
JUDGE

17.11.2006 (VINEY MITTAL)
VK JUDGE